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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,330	11/24/2003	James B. McCormick	73643	4303

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EXAMINER

BOWERS, NATHAN ANDREW

ART UNIT	PAPER NUMBER
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1744

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/720,330	MCCORMICK, JAMES B.	
	Examiner	Art Unit	
	Nathan A. Bowers	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>112403</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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1) Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lafond (US 6446807) in view of Intengan (US 4440301).

With respect to claims 1-3, Lafond discloses a system of stackable cassettes comprising a plurality of superimposed stackable cassettes. Each cassette comprises an open top container having two side walls, a front wall, a back wall, and a bottom wall. This is described in column 1, lines 26-49. Each side wall has a leaf (Figure 2:52) disposed therein and a boss (Figure 2:64) located below and inwardly of the leaf. Column 2, lines 48-59 state that the leafs on an underlying cassette and engage bosses on an overlaying cassette in a locking arrangement. Although Lafond does not expressly state that the cassette is intended to aid tissue processing, it is determined that the cassette is fully capable of being used in this manner. The cassette of Lafond is *structurally* identical to the claimed invention, and therefore must be able to accommodate tissue samples as well as other biological specimens. Lafond, however, does not expressly disclose that the leafs are flexible or that the locking engagement provides a sensory effect.

Intengan discloses a stackable cassette that includes flexible leafs (Figure 5:50) and bosses (Figure 5:62) designed to interact with the leafs and bosses of similar cassettes when stacked. Column 2, lines 3-14 and column 3, line 40 to column 4, line 5 state that the leafs are flexible in nature, and that the leafs and bosses are “snapped” together in order to create a locking arrangement between multiple cassettes. It is known in the art and it is common knowledge that a “snapping” action produces an audible, sensory effect that signifies when a locking arrangement has been formed.

Lafond and Intengan are analogous art because they are from the same field of endeavor regarding stackable cassettes for biological samples.

At the time of the invention, it would have been obvious to ensure that the leafs of Lafond were flexible and capable of interlocking with the disclosed bosses through a snapping action. In column 2, lines 8-14, Intengan teaches that this arrangement is beneficial because it allows the cassettes to be frictionally held together so that the cassettes will remain in an organized stack. In this way, the cassettes are arranged in an orderly fashion, and will be less prone to contamination and leakage during storage. The snapping action of the engagement between leaf and boss is also desirable because it produces an audible effect that verifies that a tight lock between cassettes has been produced.

With respect to claim 4, Lafond and Intengan disclose the apparatus set forth in claim 2 as set forth in the 35 U.S.C. 103 rejection above. In addition, Lafond teaches that the bottom wall of an overlying cassette provides a cover wall for an underlying cassette. This is apparent from the Figures.

2) Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lafond (US 6446807) in view of Intengan (US 4440301) as applied to claim 4, and further in view of Stahl (US 5035326).

Lafond and Intengan disclose the apparatus set forth in claim 4 as set forth in the 35 U.S.C. 103 rejection above, however do not expressly disclose that the uppermost stacked cassette engages a locking cover comprising an identification surface.

Stahl discloses a stackable cassette comprising an open top container having two side walls, a front wall, a back wall, and a bottom wall. This is apparent from Figure 1. Stahl teaches that leafs (Figure 1:80) are positioned on the sidewalls and interact with bosses (Figure 4:79), thereby allowing the cassettes to be stacked in an orderly arrangement. This is disclosed in column 4, line 58 to column 5, line 7. Column 6, line 60 to column 7, line 15 indicate that the uppermost stacked cassette is fitted with a locking cover comprising an identification surface. See Figure 2.

Lafond, Intengan and Stahl are analogous art because they are from the same field of endeavor regarding stackable cassettes.

At the time of the invention, it would have been obvious to provide the uppermost stacked cassette disclosed by Lafond with a cover comprising an identification surface. This would have been beneficial because it would have allowed one to quickly determine which specimens are contained in which stacked cassette group without opening the cover and exposing the samples to potential contamination. The use of written instructions, bar codes, and other labeled surfaces on covers to biological cassettes is considered to be well known in the art.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Carter (US 20030015132) and Falcone (US 3499825) teach the state of the art regarding stackable cassettes.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan A. Bowers whose telephone number is (571) 272-8613. The examiner can normally be reached on Monday-Friday 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NAB



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